
UNITED STATES DISTRICT COURT**EASTERN DISTRICT OF TEXAS**

FRANCISCO VASQUEZ, #18623-078

§

versus

§

CIVIL ACTION NO. 4:16-CV-926

§

CRIMINAL ACTION NO. 4:15CR00027-003

UNITED STATES OF AMERICA

§

§

ORDER OF DISMISSAL

The above-entitled and numbered civil action was referred to United States Magistrate Judge Kimberly C. Priest Johnson, who issued a Report and Recommendation concluding that Francisco Vasquez's construed Motion to Vacate, Set Aside or Correct Sentence by a Person in Federal Custody (#1) pursuant to 28 U.S.C. § 2255 should be dismissed without prejudice. The Report and Recommendation of the Magistrate Judge, which contains proposed findings of fact and recommendations for the disposition of such action, has been presented for consideration, and no objections thereto having been timely filed, the Court is of the opinion that the findings and conclusions of the Magistrate Judge are correct, and adopts same as the findings and conclusions of the Court.

It is accordingly **ORDERED** that the Government's motion to reconstrue pleading (Dkt. #6) is **GRANTED**.

It is further **ORDERED** that Francisco Vasquez's construe Motion to Vacate, Set Aside or Correct Sentence by a Person in Federal Custody (#1) pursuant to 28 U.S.C. § 2255 is **DISMISSED** without prejudice. The dismissal of the present § 2255 motion without prejudice does not count as a first § 2255 motion for purposes of a "second or successive" § 2255 motion. *See Castro v. United States*, 540 U.S. 375, 383 (2003).

It is further **ORDERED** that the Clerk of Court shall file the 18 U.S.C. § 3582(c)(2) Motion (#1) in Criminal Number 4:15CR00027-003.

It is finally **ORDERED** that all motions by either party not previously ruled upon are **DENIED**.

Signed this date

Nov 8, 2018

A handwritten signature in cursive script, reading "Marcia A. Crone".

MARCIA A. CRONE
UNITED STATES DISTRICT JUDGE